

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES KIM GATLUAK,

Defendant.

4:14-CR-3108

ORDER

This matter is before the Court on the defendant's request for a transcript of the sentencing proceedings in his case (filing [56](#)). The defendant asks the Court to provide him with a transcript of his sentencing proceedings, or, in the alternative, to inform him of the cost of preparing such a transcript.

Pursuant to [28 U.S.C. § 753\(f\)](#), fees for transcripts shall be paid for by the United States for persons allowed to appeal *in forma pauperis*. Additionally, fees for transcripts furnished in proceedings brought under [28 U.S.C. § 2255](#) shall be paid for by the United States if the defendant is permitted to proceed *in forma pauperis*, and if the trial judge or a circuit judge certifies that: (1) the suit or appeal is not frivolous, and (2) that the transcript is needed to decide the issue presented. [28 U.S.C. § 753\(f\)](#).

The defendant represents that he is indigent, and based on the Court's records, it appears the defendant would be allowed to proceed *in forma pauperis*. However, judgment in this case was entered on April 14, 2015, and so, pursuant to [Federal Rule of Appellate Procedure 4\(b\)](#), the time to appeal has elapsed. If defendant is considering a [§ 2255](#) motion, he has not notified the Court of its basis, and so the Court cannot determine if the motion is frivolous and whether a transcript is needed. Therefore, at this time, defendant is only entitled to a transcript of his sentencing proceedings if he submits the required payment.

Because the defendant has not appealed his sentence or conviction, the audio recording of defendant's sentencing hearing has not yet been transcribed. The estimated cost to prepare a written transcript of that hearing is \$80.30. Alternatively, a copy of the audio recording may be sent to the defendant on a CD for \$30.00. If the defendant wishes to purchase either of these, he should fill out Part A of the attached "Request for Transcript" form, and then send that form to the Clerk's Office along with the appropriate payment. Should the cost of the transcript exceed the amounts

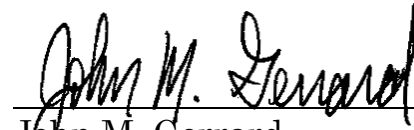
estimated above, the defendant will be required to pay the difference. Likewise, should the cost of the transcript be less than \$80.30, a refund check will be issued.

IT IS ORDERED:

1. The defendant's motion for copies (filing 56) is denied at this time.
2. The Clerk's Office is directed to mail a copy of this order, along with the attached Request for Transcript form, to the defendant, at his address of record.

Dated this 30th day of June, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "John M. Gerrard", is written over a horizontal line.

John M. Gerrard  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

Case No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s),

vs.

**REQUEST FOR TRANSCRIPT**  
**OR**  
**CERTIFICATE OF NO TRANSCRIPT ORDER**

\_\_\_\_\_  
Defendant(s).

**Complete EITHER Part A or Part B**

----- **PART A** -----

**TO COURT REPORTER:** \_\_\_\_\_ Prepare a transcript.<sup>1</sup>

**TO CLERK:** \_\_\_\_\_ Burn an audio CD of a digitally-recorded hearing before Judge Gerrard, Judge Kopf, Judge Urbom, or a magistrate judge, if available.<sup>2</sup>

**Please prepare a transcript of the proceedings indicated below:**

\_\_\_\_\_ **Pretrial Proceeding** held on \_\_\_\_\_

\_\_\_\_\_ **Plea Hearing** held on \_\_\_\_\_

\_\_\_\_\_ **Sentencing** held on \_\_\_\_\_

\_\_\_\_\_ **Trial** held on \_\_\_\_\_

**(NOTE:** Transcript will not include voir dire, opening statements, or closing arguments unless specifically requested):

<sup>1</sup>**NOTE:** After the court reporter or transcriber files the official transcript in any civil or criminal proceeding, the parties will have seven business days to file a Notice of Intent to Request Redaction. **See** NEGenR 1.3(c); NECivR 5.3; NECrimR 49.3. **See also** <http://www.ned.uscourts.gov/plans-and-policies>, "Transcript Redaction Procedure (Revised; Effective May 12, 2008)."

<sup>2</sup>Digital audio files of hearings and trials before Judge Gerrard, Judge Kopf, Judge Urbom, and the magistrate judges may be available over the Internet through the Public Access to Court Electronic Records (PACER) system at <https://ecf.ned.uscourts.gov/cgi-bin/ShowIndex.pl>. See Digital Audio Files of Court Proceedings Available Online at <http://www.ned.uscourts.gov/email>.

\_\_\_\_ **Testimony ONLY of Specific Trial Witness(es)**

Name \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_ **Other Hearing** held on \_\_\_\_\_

**Delivery Requested:**<sup>3</sup>

\_\_\_\_ Within 30 calendar days.

\_\_\_\_ Within 14 calendar days.

\_\_\_\_ Within 7 calendar days.

s/ \_\_\_\_\_

Attorney's Signature/Party Name

Address \_\_\_\_\_

City/State \_\_\_\_\_

Date \_\_\_\_\_

I am (indicate one):

\_\_\_\_ Retained

\_\_\_\_ CJA

\_\_\_\_ FPD

\_\_\_\_ USA

\_\_\_\_ A party to this action

<sup>3</sup>Court Reporting Fee Schedule is located at <http://www.ned.uscourts.gov/fees>.

----- **PART B** -----

**CERTIFICATE OF NO TRANSCRIPT ORDER**

By signing below, I certify that no transcript will be ordered.

s/ \_\_\_\_\_  
Attorney's Signature

Date \_\_\_\_\_

\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

\_\_\_\_\_ and I hereby certify that I have mailed by United States Postal Service the document to the the following non CM/ECF participants: \_\_\_\_\_.

s/ \_\_\_\_\_

\_\_\_\_\_

**COURT REPORTER/TRANSCRIBER ACKNOWLEDGMENT**

- Date Order Received \_\_\_\_\_
- Estimated Completion Time \_\_\_\_\_
- Estimated Number of Pages \_\_\_\_\_

\_\_\_\_\_  
Court Reporter/Transcriber

Date \_\_\_\_\_